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Courthouse  
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St. Ignace, MI 49781

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Court Administrator  
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Probate Register  
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Juvenile Register  
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**STATE OF MICHIGAN**



**SIXTH PROBATE COURT**

**THOMAS B. NORTH**  
PROBATE JUDGE

**LUCE COUNTY**  
Courthouse  
County Government Bldg.  
407 West Hamie Street  
Newberry, MI 49868

**NANCY J. MORRISON**  
Probate/Juvenile Register  
Court Recorder  
Court Administrator  
(906) 293-5601

**MICHAEL M. WOLF**  
Juvenile Officer  
(906) 293-5751

April 2, 2002

1999-10

Mr. Corbin Davis  
Clerk  
Michigan Supreme Court  
P. O. Box 30052  
Lansing, MI 48909

Dear Mr. Davis:

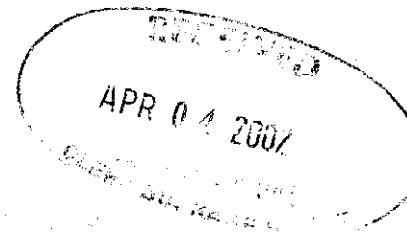
RE: Proposed Amendments to MRE 703 and MRE 1101

I am writing to comment on the proposed amendments to MRE 703 and MRE 1101. I believe that I wrote to comment when Alternative A to MRE 703 was published for comment in 2000, however, I am unable to find my copy of those comments.

Be that as it may, I have read the amendments now proposed and the Staff Comment. It is apparent from reading the Staff Comment that the earlier comments in 2000 from various persons were considered thoroughly, and that is good to see. It is clearly stated that Alternative B to MRE 703, and the proposed amendment to MRE 1101 were drafted in response to those comments. It was also very helpful to read the comment regarding the reasons for the proposed amendments.

My comments at this time are twofold. First, proposed amendment to MRE 1101, specifically subparagraph (b)(10), refers to preliminary hearings under the Mental Health Code. I am puzzled by probate judges comments in 2000 and 2001 referencing preliminary hearings that led to this paragraph because my copy of the Mental Health Code, specifically Section 450, shows that section providing for preliminary hearings was repealed in 1996 and there no longer is any such thing as a preliminary hearing in a mental health case. Further, MCR 5.739 on preliminary hearings was accordingly deleted in 1997. Therefore, the word "preliminary" needs to be stricken from this proposed amendment.

Notwithstanding that provision in proposed MRE 1101, I am still opposed to both alternatives proposed for MRE 703. Any requirement that the basis of an expert's testimony be in the evidence or a showing that there is no good faith basis for objecting will vastly increase the length of trials and hearings. Our dockets simply will not withstand and do not have room for



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Mr. Corbin Davis  
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any changes that will increase the length of hearings and trials. Its is already impossible to always set trials and hearings within the time frames mandated by law, mostly due to the previous unfunded mandates in the form of changes in the law. Every time there is a change such as the one proposed here without any provision for additional resources, it creates insurmountable problems for the courts and, therefore, the parties to the cases.

Furthermore, I am concerned that the proposals go beyond what is necessary to address the problem. The Staff Comment states that the intent is that experts not be allowed to testify about inadmissible hearsay that was part of the basis for the expert's opinion. That being the problem, why not simply amend the rule to clearly state that is not permitted? In other words, instead of adopting either alternative A or B to 703, I propose that a line simply be added to the existing rule to state "However, expert witnesses shall not be allowed to testify based on inadmissible hearsay as part of their opinion," or some similar language. That would clearly address the stated problem without creating a whole host of worse problems, which has been the result most of the time the State's laws have been changed.

Thank you for your consideration of these comments.

Sincerely yours,

A handwritten signature in cursive script that reads "Thomas B. North".

Thomas B. North  
Probate Judge

TBN:jl